THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION Nos.14777, 14781, 14784, 14851 of 1997

Date 21.11.2005

W.P.No.14777 of 1997

Between:

Degala Suresh Kumar & others.

..... PETITIONERS

AND

The Land Acquisition Officer-cum-Revenue Divisional Officer, Kakinada, E.G.District.

.....RESPONDENT

W.P.No.14781 of 1997

Between:

Degala Suresh Kumar & others.

..... PETITIONERS

AND

The Land Acquisition Officer-cum-Revenue Divisional Officer, Kakinada, E.G.District.

.....RESPONDENT

W.P.No.14784 of 1997

Between:

Degala Suresh Kumar & others.

..... PETITIONERS

AND

The Land Acquisition Officer-cum-Revenue Divisional Officer, Kakinada, E.G.District.

.....RESPONDENT

W.P.No.14851 of 1997

Between:

Degala Suresh Kumar & others.

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The Land Acquisition Officer-cum-Revenue Divisional Officer, Kakinada, E.G.District.

.....RESPONDENT

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION Nos.14777, 14781, 14784, 14851 of 1997

COMMON ORDER:

All these four cases can be conveniently dealt with and decided, for, the common question that arises therein is whether the Collector/Land Acquisition Officer, Kakinada, is justified in not making a reference under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act') to the civil Court for the purpose of considering enhancement of the compensation already awarded by the Land Acquisition Officer.

The stand taken by the respondent is that since the writ petitioners are not entitled to be put on notice under
sub-section (2) of Section 12 of the Act, they have not been issued any such notices by the Collector. But, however, the fact remains that the writ petitioners have got the matter settled through a reference under Section 30 of the Act before the civil Court that they are the persons who are interested and entitled to receive the compensation amount. It therefore emerges that they are the persons who are liable to be put on notice under sub-section (2) of Section 12 of the Act.

The next question that calls for attention is as to whether the period of

limitation for seeking a reference under Section 18 of the Act could be said to have been exhausted by the time the writ petitioners have made their claim seeking such a reference.

This question had fallen for consideration before a Full Bench in the case of **Special Deputy Collector, Land Acquisition Unit, Singareni Collieries Co., Ltd., Godavarikhani v. Dasari Ramulu**. Chief Justice Liberhan speaking for the Full Bench had crystallized the entire issue and answered the same in the following manner:-

> "Mere knowledge of the award cannot commence the period of limitation or set the period of limitation to run against the claimant depriving of his right to seek the reference. It is well known that the legal provisions of limitation are artificial and would not always satisfy the test of either logic or equality. The provisions are being enacted with an object in a civilized society that the sword of Damocles should not be kept hanging for all times to come. It does not obliterate the right but only bars the remedy. As a necessary corollary the limitation cannot commence on the knowledge of an award when statute provides that it would commence from the date of service of the notice. The commencement of the limitation has been provided by the legislation by legal fiction, which should be taken to a logical end. Neither the limitation can be extended nor we can read into the statutory provisions especially when they are not capable of two interpretations at all. In our considered view since the period of limitation provided is six months from the date of award, interpreted to be the date of knowledge, the commencement of six months would not be attracted to the specific statutory provisions providing for the commencement of the limitation of two months from the date of service of the award. The limitation cannot run against the claimant. In spite of no form of notice or mode of service of the award having been provided yet service of notice has been specifically provided for. Service of notice can safely be considered to mean tender of the notice to the claimant and not his mere knowledge acquired through various means."

In view of this clear exposition of law that service of notice under sub-section (2) of Section 12 of the Act is the commencing point for the limitation, it follows that without serving the said notice, the question of commencement of the period of limitation itself does not arise. Therefore, the objections raised by the respondent for not making reference under Section 18 of the Act are incorrect and accordingly they are rejected.

The respondent is directed to make a reference to the civil Court as solicited by the writ petitioners for the purpose of determining the appropriate quantum of compensation payable for the lands of the writ petitioners, that are acquired. The reference may be made within a period of one month from the date of receipt of a copy of this order. The writ petitions stand disposed of with the above direction. No order as to costs.

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21 -11-2006

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